IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

WP(C).No. 5560 of 2007(J)

PETITIONER:

GEORGE M. KUNNAPPILLIL, S/O. MATHAI,
AGED 62 YEARS, RETIRED DEPUTY CONTROLLER OF RATIONING, CIVIL SUPPLIES DEPARTMENT, RESIDING AT KUNNAPPILLIL HOUSE, AVOLI P.O., MUVATTUPUZHA, PIN-686 677.

ADDITIONAL 2ND PETITIONER

ELSAMMA GEORGE,
W/O.GEORGE M.KUNNAPPILLI,
AGED 51 YEARS, RESIDING AT KUNNAPPILLIL HOUSE,
AVOILI P.O,
MUVATTUPUZHA - 686 677.

(IMPLEADED AS ADDL.2ND PETITIONER AS PER ORDER DATED 14/8/07 IN IA 11171/07)

BY ADV. SRI.C.K.PAVITHRAN

RESPONDENTS:
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1. **GOVERNMENT OF KERALA,**
   REPRESENTED BY SECRETARY TO GOVERNMENT, FOOD & CIVIL SUPPLIES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. **THE COMMISSIONER OF CIVIL SUPPLIES,**
   THIRUVANANTHAPURAM.

3. **THE DIRECTOR OF CIVIL SUPPLIES,**
   THIRUVANANTHAPURAM.

4. **ACCOUNTANT GENERAL,**
   THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.5560/07

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE JUDGMENT DATED 19.10.2000 IN OP 13423/93.

EXT.P2: TRUE COPY OF JUDGMENT DATED 22.11.05 IN OP 18065/99.

EXT.P3: TRUE COPY OF THE PROCEEDINGS DATED 1.8.06 ISSUED BY THE LAND REVENUE COMMISSIONER.

EXT.P4: TRUE COPY OF PROCEEDINGS DATED 29.8.06 ISSUED BY THE 3RD RESPONDENT.

EXT.P5: TRUE COPY OF PROCEEDINGS DATED 22.12.06 ISSUED BY THE 2ND RESPONDENT.

EXT.P6: TRUE COPY OF REPRESENTATION DATED 11.8.06 SUBMITTED BY THE PETITIONER.

EXT.P7: TRUE COPY OF REPRESENTATION DATED 5.2.07 SUBMITTED BY THE PETITIONER.

EXT.P8: TRUE COPY OF THE PETITION DATED 2.4.2007 ISSUED BY THE 3RD RESPONDENT.

EXHIBITS OF R2

EXT.R2(a): TRUE COPY OF THE PROCEEDINGS NO.CS B6-41336/2000 DT.9.2.2001.

EXT.R2(b): TRUE COPY OF THE PROCEEDINGS NO.B4.3052/2006 DT.29.8.06.

EXT.R2(c): TRUE COPY OF THE REPRESENTATION DATED 19.9.06 BEFORE THE COMMISSIONER OF CIVIL SUPPLIES.

EXT.R2(d): TRUE COPY OF THE PROCEEDINGS NO.B3-3052/06 DATED 22.12.2006.

//TRUE COPY//

ANTONY DOMINIC, J.
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W.P.(C) NO. 5560 OF 2007
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Dated this the 16th day of August, 2007

J U D G M E N T

Petitioner is a retired Deputy Controller of Rationing in the Civil Supplies Department. There was a seniority dispute between the petitioner and one Sri.Balagopalan, which was subject matter of OP No.13423/1993. The case was disposed of by Ext.P1 judgment, in which this court held as follows:

> Accordingly respondents 2 and 3 are directed to consider the case of the petitioner as stated in paragraphs 7,8,9 and 13 of the counter affidavit, with notice to the petitioner and sixth respondent and pass appropriate orders. Since this is a long pending matter, the respondents are directed to take a decision in the matter within a period of four months from the date of receipt of a copy of this judgment. If it is found on a consideration of the matter in the light of the counter affidavit that the petitioner is entitled to seniority over sixth respondent, all consequential monetary benefits will be given to the petitioner. The original petition is disposed of as above.

2. It is stated that accordingly, consequential orders were passed by Exhibits P3, P4 and P5. By Ext.P3 his seniority in the U.D.cadre was reassigned above that of Sri.Balagopalan. Similarly in Ext.P4, seniority was restored in the cadre of Assistant Taluk Supply Officer and in Ext.P5 restoration in the cadre of Taluk Supply Officer was also ordered. The complaint of the petitioner is that although it was thus found by the respondents that he was entitled to seniority over Sri.Balagopalan and orders have been issued restoring his seniority, monetary benefits arising therefrom has not been paid inspite of the specific direction contained in this behalf in Ext.P1 judgment. Claiming monetary benefits, petitioner made Exhibits P6 and P7 representations, which were also not responded. In the aforesaid circumstances, this writ petition was filed praying for a direction to the respondents to consider the representations and grant all monetary benefits consequent

on the restoration of his seniority.

3. In the counter affidavit filed by the respondents, they have produced Exhibit R2(a) dated 9/2/01. In para 9 of the counter affidavit, it is stated that the respondent had rejected the claim of the petitioner in accordance with law. The counter affidavit does not reveal any reasons for such rejection of the petitioner's claim. It is to be noted that Ext.R2(a) is an order prior to Exts.P3 to P5 orders and therefore the said order can be of no relevance in determining the monetary entitlement of the petitioner consequent to Exhibits P3, P4 and P5.

4. The only question that arises for consideration is the entitlement of the petitioner for monetary benefits consequent to Exhibits P3, P4 and P5. This right of the petitioner has already been recognised in Ext.P1 judgment. The respondents have not filed any appeal against the said judgment and therefore the judgment has attained finality.

Since the respondents have found that the petitioner was entitled to restoration of seniority and that the said finding has been implemented as per Exhibits P3, P4 and P5, petitioner is entitled to monetary benefits arising thereof. No valid reasons are stated for denying such right of the petitioner. In any case, the contentions, if any, also cannot be taken cognizance of, since Ext.P1 judgment has attained finality.

5. For the aforesaid reasons, I direct respondents to quantify the benefits that are due to the petitioner arising on account of Exhibits P3, P4 and P5 orders and pay the same, as expeditiously as possible, at any rate within a period of three months from the date of receipt of a copy of this judgment.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

Rp